

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

STATE OF MISSOURI

**v.
REGINALD L. SINGLETARY JR.**

RESPONDENT,

APPELLANT.

DOCKET NUMBER WD77663

DATE: May 31, 2016

Appeal From:

Johnson County Circuit Court
The Honorable R. Michael Wagner, Judge

Appellate Judges:

Division One: Lisa White Hardwick, Presiding Judge, Thomas H. Newton, Judge and
Cynthia L. Martin, Judge

Attorneys:

Richard A. Starnes, Jefferson City, MO, for respondent.

Emmett D. Queener, Columbia, MO, for appellant.

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

STATE OF MISSOURI,

RESPONDENT,

v.

REGINALD L. SINGLETARY JR.,

APPELLANT.

No. WD77663

Johnson County

Before Division One: Lisa White Hardwick, Presiding Judge, Thomas H. Newton, Judge and Cynthia L. Martin, Judge

Reginald Singletary, Jr. appeals his convictions of first degree murder and armed criminal action following a jury trial. He claims the trial court erred in excluding testimony offered by three witnesses, in overruling a *Batson* challenge to the State's peremptory strike of venire person number 32, and in refusing to select a jury from outside the Seventeenth Judicial Circuit.

AFFIRMED

Division One holds:

1. In the absence of evidence that Singletary was aware of the subject matter of the excluded testimony of three witnesses at the time of his police interview, the excluded testimony was not logically relevant to establish Singletary's state of mind during his police interview.
2. The excluded testimony was not related to circumstances attendant to Singletary's statements to the police, as the subject matter of the testimony was not known to police or raised by the police during the interview.
3. Singletary did not sustain his burden to show that the State's explanation for the strike of venire person number 32 was pretextual.
4. By the plain language of Rule 32.02, unless a change of venue stipulation is filed within ten days of the initial plea, the trial court has no power to grant the change of venue *except* as provided in Rule 32.09(c) or 32.10. Singletary's application for change of venue was not timely filed, and made no reference to either exception. Despite the late filed application, the trial court nonetheless had the authority to secure a jury from another county in lieu of changing venue. That is precisely what occurred in this case.

5. Singletary's contention that he withdrew his application for change of venue because an agreement was reached to select a jury from outside the Seventeenth Judicial Circuit is not supported by the record.

Opinion by Cynthia L. Martin, Judge

May 31, 2016

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